

Message Text

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PAGE 01 STATE 185921
ORIGIN EB-08

INFO OCT-01 ARA-10 ISO-00 CAB-02 CIAE-00 COME-00
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ARA/ECP:DTAHER (INFO)
DOT/OST:LERICSON
COM?BIEPR:EGRAUMAN
DOT/OST/TGC:PLARSEN
FEA:DMCCLANAHAN
EB/OA/AN:ARIMAS (INFO)
L/EB:PMICKEY
CAB/BIA:CCOLDREN
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FM SECSTATE WASHDC
TO AMEMBASSY BOGOTA

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E.O. 11652: N/A

TAGS: EAIR, ENRG, CO, US

SUBJECT: JET FUEL PRICES AND TAXES

REF: BOGOTA 6275 AND 5708

1. DEPARTMENT APPRECIATES TONE OF COLOMBIAN NOTE, BUT,
CONSCIOUS OF PREVIOUS PROMISE BY COLOMBIANS TO RESOLVE
FUEL TAX AND PRICE PROBLEMS BY JUNE 30, WE FEAR THAT
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PAGE 02 STATE 185921

COLOMBIAN GOVERNMENT MAY BE TEMPTED TO PLAY THIS GAME
INDEFINITELY, GETTING QUARTERLY ALLOCATIONS IN RETURN FOR
PROMISES WHICH ARE NEVER FULFILLED.

2. QUESTION ALSO ARISES OF HOW TO TREAT COLOMBIA'S SECOND
AIRLINE, AEROCONDOR. FEDERAL ENERGY ADMINISTRATION (FEA)
RECENTLY DISCOVERED THAT AEROCONDOR WAS BUYING LARGE

AMOUNTS OF DOMESTIC FUEL DESPITE THE FACT IT HAD NEVER COMPLETED THE PROCEDURES FOR OBTAINING A BASE ALLOCATION. PAST PURCHASES WERE REFERRED TO FEA'S COMPLIANCE DIVISION FOR ACTION, BUT WHEN THE NECESSARY INFORMATION WAS PROVIDED A SUITABLE ALLOCATION WAS GRANTED FOR THE FUTURE. AERO-CONDOR HAS NOW APPLIED FOR AN INCREASE, WHICH IS BEING WITHHELD PENDING RESOLUTION OF OUR FUEL PROBLEMS IN COLOMBIA.

3. SINCE AVIANCA'S SUPPLEMENTAL ALLOCATION IS A RELATIVELY SMALL PERCENTAGE OF ITS TOTAL ALLOCATION, AVIANCA WILL EXHAUST ITS BASE ALLOCATION ONLY SOME TIME IN LATE AUGUST OR SEPTEMBER. DECISION ON SUPPLEMENTAL ALLOCATION CAN BE DELAYED UNTIL THAT TIME.

4. IN VIEW OF CONTINUED GOC INACTION ON TAX ISSUE, THE DEPARTMENT OF COMMERCE IS CONSIDERING REEXAMINING AVIANCA'S (AND AEROCONDOR'S) TAX EXEMPT STATUS. IN 1970 UNDER PROVISIONS OF US STATUTES THE DOC ISSUED A FINDING WHICH ALLOWS AIRCRAFT OF COLOMBIAN REGISTRY TO PURCHASE AIRCRAFT SUPPLIES FREE FROM CERTAIN CUSTOMS DUTIES AND INTERNAL REVENUE TAXES. UNDER APPLICABLE LAW, THE SECRETARY OF COMMERCE MAY BE REQUIRED TO LIFT THE EXEMPTION GRANTED TO A FOREIGN AIRLINE WHOSE GOVERNMENT DENIES SUBSTANTIALLY RECIPROCAL TREATMENT TO US AIRLINES. THE WITHDRAWAL, SHOULD IT OCCUR, WOULD COVER ONLY AVIATION LIMITED OFFICIAL USE

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PAGE 03 STATE 185921

FUEL PURCHASES AND A TAX OF 1.5 CENTS A GALLON WOULD BE CHARGED ON BONDED FUEL. THIS TAX IS NOT APPLICABLE TO DOMESTIC FUEL USED IN COMMERCIAL AVIATION.

5. IN LIGHT OF ABOVE, DEPARTMENT SUGGESTS REPLY TO COLOMBIANS ALONG FOLLOWING LINES. EMBASSY'S COMMENTS ON ABOVE ANALYSIS AND PROPOSED LANGUAGE ARE SOLICITED.

6. SUGGESTED TEXT....REFERS TO THE FOREIGN MINISTRY'S NOTE OF JUNE 30 REGARDING AVIATION FUEL PROBLEMS AND SUGGESTING THAT AVIANCA'S FULL U.S. DOMESTIC JET FUEL ALLOCATION MIGHT BE APPROVED FOR THE THIRD QUARTER.

THE UNITED STATES GOVERNMENT OBSERVES WITH PLEASURE THE EVIDENT GOODWILL OF THE GOVERNMENT OF COLOMBIA IN FINDING A SOLUTION TO THE COLOMBIAN JET FUEL TAX AND PRICE PROBLEMS REFERRED TO IN THE MINISTRY'S NOTE. IT IS TROUBLED, HOWEVER, THAT DESPITE THE JUNE 30 DEADLINE SET AT THE MEETING OF MARCH 14, SO MUCH TIME HAS ALREADY PASSED WITHOUT CONCRETE PROGRESS, AND IT IS RELUCTANT TO APPROVE AVIANCA'S SUPPLEMENTAL ALLOCATION FOR STILL ANOTHER QUARTER IN THE ABSENCE OF SUCH PROGRESS. SURELY AT LEAST

THE TAX BURDEN, WHICH INVOLVES ONLY BUREAUCRATIC DIFFICULTIES, CAN BE LIFTED FROM BRANIFF'S SHOULDERS WITHOUT FURTHER DELAY. INDEED, AT THE MARCH 14 MEETING THE UNITED STATES DELEGATION WAS ASSURED THAT TAX RESOLUTION 85-77 PROVIDES FOR REFUND TO BRANIFF OF ALL FUEL TAXES PAID PRIOR TO OCTOBER 8, 1976 AND THAT FLL REFUND WOULD

FORTHCOMING IN A FEW WEEKS. THE UNITED STATES GOVERNMENT NOTES THAT AVIANCA'S BASE ALLOCATION WILL PROVIDE SUFFICIENT DOMESTIC JET FUEL FOR OPERATIONS UNTIL APPROXIMATELY SEPTEMBER 1, AND IT PROPOSES TO DELAY A

DECISION ON THE THIRD QUARTER SUPPLEMENTAL ALLOCATION TO THAT DATE, WHEN IT WILL CONSIDER THE THEN CURRENT LIMITED OFFICIAL USE

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PAGE 04 STATE 185921

STATUS OF THE TAX AND PRICE PROBLEMS.

THE EMBASSY WISHES TO MAKE CLEAR THAT THE U.S. DOMESTIC FUEL ALLOCATIONS OF ALL COLOMBIAN AIRLINES ARE IN EQUAL JEOPARDY. IF THE OUTSTANDING ISSUES ARE NOT SOON RESOLVED, IT WILL BE NECESSARY, FOR EXAMPLE, TO RECONSIDER THE ALLOCATION RECENTLY GRANTED TO AEROCONDOR DESPITE THAT AIRLINE'S RECORD OF LARGE FUEL PURCHASES WITHOUT PROPER AUTHORITY. EVEN NOW NEW REQUESTS FOR AN INCREASED ALLOCATION ARE UNLIKELY TO BE APPROVED.

IN ADDITION, CONTINUED INACTION WITH RESPECT TO TAXES WILL MAKE IT NECESSARY FOR THE UNITED STATES TO CONSIDER WITHDRAWING A 1970 FINDING OF RECIPROCITY WHICH ALLOWS FUEL TO BE PURCHASED FOR COLOMBIAN-REGISTERED AIRCRAFT FREE OF FEDERAL EXCISE TAX. END TEXT.

7. DEPARTMENT DOES NOT INTEND TO RECOMMEND APPROVAL OF AVIANCA'S FOURTH QUARTER SUPPLEMENTAL UNLESS THE PRICE DIFFERENTIAL PROBLEM HAS BEEN RESOLVED OR RESPONSIBILITY FOR FAILURE IS CLEARLY ON U.S. SIDE. SIMILARLY, WHILE WE WOULD BE RELUCTANT TO CUT OFF AEROCONDOR'S ALLOCATION COMPLETELY AS OF OCTOBER 1, WE WOULD WANT THAT COMPANY ALSO TO EXPERIENCE ACTUAL FUEL SHORTAGE IN FOURTH QUARTER. THESE INTENTIONS ARE NOT INCLUDED IN THE NOTE IN THE HOPE THAT THE PROPOSED VERSION WILL INDUCE THE COLOMBIANS TO SUBSTANTIAL PROGRESS ON THE TAX SIDE IN RETURN FOR THE THIRD QUARTER SUPPLEMENTAL ALLOCATION.

8. ALTHOUGH REF B INDICATES THAT VELEZ WOULD BE PREPARED TO DISCUSS THE BULK PURCHASE ALTERNATIVE BY ABOUT JULY 10, BRANIFF HAD HEARD NOTHING FROM ITS BOGOTA REPRESENTATIVE ON THIS POINT AS OF JULY 22. VELEZ HAS NEVERTHELESS LIMITED OFFICIAL USE

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PAGE 05 STATE 185921

SUGGESTED STILL ANOTHER ALTERNATIVE, BRANIFF'S BROKERING OF AUTOMOBILE FUEL, BUT BRANIFF IS DOUBTFUL IT IS FEASIBLE AND FEARS THE IDEA WAS FLOATED PRIMARILY TO GIVE THE IMPRESSION OF MOVEMENT.

9. FYI. ACCORDING TO AVIANCA'S WASHINGTON LAWYER, ESSO HAS CONCLUDED THAT THE COST OF IMPORTED JET FUEL WOULD APPROXIMATE THE PRESENT PRICE TO BRANIFF BY THE TIME IT REACHED BOGOTA. THIS MAY NOT BE TRUE FOR CALI, HOWEVER, AND BRANIFF REPORTS THAT A CALI OPTION IS STILL UNDER CONSIDERATION.

10. BRANIFF'S LATEST WORD FROM BOGOTA IS THAT COLOMBIAN GOVERNMENT IS NOW CLAIMING THAT IT HAS NOT COLLECTED

BRANIFF'S FUEL TAX FROM ESSO, WHICH HAS MISTAKENLY COLLECTED FROM BRANIFF. AT THIS STAGE THE CLAIM SEEMS UNLIKELY TO BE VALID, AND BRANIFF SUGGESTS THAT COLOMBIANS ARE JUST TRYING TO GAIN TIME. END FYI. CHRISTOPHER

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